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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/754,182  | 01/03/2001  | Robert Carl Silkey   | 258/083             | 2812             |
| 27189   | 7590        | 07/15/2005           | EXAMINER            |                  |
| PROCOPIO, CORY, HARGREAVES & SAVITCH LLP<br>530 B STREET<br>SUITE 2100<br>SAN DIEGO, CA 92101 |             |                      |                     | JANVIER, JEAN D  |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |
|   |             | 3622                 |                     |                  |

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Non-Responsive Amendment**

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 48-53, drawn to, among other things, a method of and a system for merging a composed personalized message **with a reference providing network access to a scheduling module** that manages a schedule of events for a service provider, **wherein the personalized message and the reference comprise a personalized promotion.**
- II. Claims 42-47, drawn to, among other things, a scheduling module configured to manage **a calendar of events for a service provider, including scheduling new appointments and canceling existing appointments**, the scheduling module further configured to identify an event on said calendar of events pertaining to a first client.

For example, Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed. The subcombination has separate utility by itself such as a scheduling module

configured to manage a calendar of events for a service provider, including scheduling new appointments and canceling existing appointments.

**No need to elect here for the new claims should be canceled as discussed below.**

Newly submitted claims 42-48 are directed to an invention that is independent or distinct from the invention originally presented in claims 30-41 as shown below:

New independent claim 48 discloses a method of and a system for merging a composed personalized message with a reference providing network access to a scheduling module that manages a schedule of events for a service provider, wherein the personalized message and the reference comprise a personalized promotion.

Furthermore, independent claim 42 discloses a scheduling module configured to manage a calendar of events for a service provider, including scheduling new appointments and canceling existing appointments, the scheduling module further configured to identify an event on said calendar of events pertaining to a first client.

Since applicant has received an action on the merits for the originally presented invention (claims 30-41), this invention was supposed to be constructively elected by original presentation for prosecution on the merits. However, the newly added claims do not reflect the original claimed inventions. Accordingly, claims 42-53 are being withdrawn from consideration as being directed to a non-elected invention. Thus, there are no claims left to be examined.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is

longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

See 37 CFR 1.142(b) and MPEP § 821.03..

### **Conclusion**

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (571) 272- 6724.

Non-Official- 571-273-6719.

Official Draft (effective 07/15/05)- 571-273-8300

**07/05/05**

**JDJ**

**Jean D. Janvier**

Patent Examiner

Art Unit 3622

**JEAN D. JANVIER**  
**PRIMARY EXAMINER**  
*Janvier JeanDora*